

## **BUREAU OF AUTOMOTIVE REPAIR**

### **INITIAL STATEMENT OF REASONS**

**Hearing Dates:**

September 19 and 21, 2001

**Subject Matter of Proposed Regulations:**

Automatic Transmissions

**Section Affected:**

Section 3361.1 of Title 16 of the  
California Code of Regulations

**Problems Addressed:**

Today's automotive technology has begun to outpace some of the regulations promulgated by the Department of Consumer Affairs/Bureau of Automotive Repair (Bureau); in particular, Section 3361.1. Automatic transmissions have become more sophisticated with the introduction of front wheel drive (trans axles) and advanced computer and electronic controls. Several of the provisions in Section 3361.1 need to be clarified and brought up to date with current technologies.

Section 3361.1 sets standards for the repair/replacement of automatic transmissions. The current regulation requires automatic transmission repair facilities to disclose the cost of a rebuilt exchange transmission, excluding hard parts, as provided in subsection (d)(2). Section 3361.1(d)(6), the "Important Notice," was originally designed as a protection for consumers to enable them to weigh the costs of having their transmission repaired against having it replaced. Although the "Important Notice" was supposed to be used as a consumer protection device, it has not proven itself to be as effective as Section 3353. Instead, it has created a way for unscrupulous transmission repair facilities to charge for additional hard parts when transmissions are exchanged; parts that the customer may not actually receive.

Furthermore, the additional estimate and disclosure requirements in Section 3361.1(d) are unnecessary and burdensome and, for the most part, duplicative of the requirements of Section 3353. When Section 3361.1 was first adopted, there was a need to address the estimate and disclosure requirements. Over time, Section 3353 has been amended and clarified and now addresses the concerns that subsection (d) was originally intended to address.

**Specific Purpose of Regulatory Proposal:**

- **Amend the opening paragraph.**

The opening paragraph of Section 3361.1 is amended to include a sentence that specifies that the automatic transmission portion of a trans axle is to be considered as an "automatic transmission" for the purposes of this section. This change is

necessary in order to recognize current technology and to avoid any confusion regarding this section's applicability to front wheel drive trans axles.

- **Amend subsection (a).**

Subsection (a) is amended to specifically require a diagnostic check of the electronic control module and associated components of electronically controlled automatic transmissions. Again, this amendment is necessary in order to recognize current technology. The amendments further require compliance with Sections 3353, 3375, 3376 and 3377 under specified conditions. This amendment will specifically apply the consumer protections of those sections to automatic transmission repair transactions, will eliminate unnecessary duplication of requirements and will reduce paperwork for automotive repair dealers that engage in automatic transmission repair.

- **Amend subsection (b).**

Subsection (b) is amended by clarifying the term “exchanged” when used to describe an automatic transmission. These are nonsubstantive, editorial and grammatical changes that do not affect the meaning or application of this regulation. The reference to the use of the terms “rebuilt,” “remanufactured,” “reconditioned,” or “overhauled” is removed from this subsection and renumbered as subsection (c).

- **Add a new subsection (c).**

The provisions relating to the use of the terms “rebuilt,” “remanufactured,” “reconditioned,” and “overhauled” (formerly found in subsection (b)) are renumbered as subsection (c) with amendments that clarify when the provisions of this subsection are applicable to the use of the foregoing terms. Subparagraphs (1) – (5) undergo only nonsubstantive, editorial and grammatical changes that do not affect the meaning or application of this regulation.

In addition, paragraph (6) is added regarding computer and electronic transmission controls and paragraph (7) is added regarding torque converters. This change is necessary in order to recognize current technology in electronic and computer controlled automatic transmissions.

- **Amend and renumber subsection (c).**

Subsection (c) is renumbered as subsection (d) and is amended with only minor, nonsubstantive, grammatical and editorial changes that do not affect the meaning or application of this regulation.

- **Delete subsections (d) and (e).**

Subsections (d) and (e) of the current regulation are deleted in their entirety. These provisions are unnecessary, burdensome and duplicative. The application of section 3353 to automatic transmission repair transactions (see amendments to subsection (a) above) ensures consumer protection and prevents automatic transmission repair

facilities from fraudulently charging for hard parts. Automatic transmission repair facilities will be required to disclose the total cost for repair of the customer's transmission, including hard parts. This will allow the customer the opportunity to weigh the costs and make informed decisions. Further, auto body repair facilities will be required to obtain authorization from the customer before proceeding with additional repairs and costs not part of the original estimate.

### **Factual Basis**

The Bureau of Automotive Repair was established within the California Department of Consumer Affairs in 1972. The Bureau was created by Chapter 1578, Statutes of 1971 (Senate Bill 51, Beilenson), which mandated a statewide consumer protection program for automotive repair.

Through its statewide offices, the Bureau conducts consumer protection services related to automotive repair. Bureau representatives register and regulate automotive repair dealers, accept and mediate auto repair complaints from the public, investigate violations of the Automotive Repair Act (Business and Professions Code Section 9880, et seq.) and, when appropriate, refer cases to law enforcement authorities for prosecution.

Automotive technology in the area of automatic transmissions has advanced to the point that Section 3361.1 is somewhat outdated. Automatic transmissions have become more sophisticated with the introduction of front wheel drive (trans axles) and advanced computer and electronic controls. Several of the provisions in Section 3361.1 need to be clarified and brought up to date with current technologies.

Subsection (d) of Section 3361.1 calls for automatic transmission repair facilities to disclose the cost of a rebuilt or exchange transmission, excluding hard parts. Repair facilities typically quote a price for the teardown and the rebuilding of the customer's transmission, or the installation of a replacement/exchange transmission. In quoting these prices, the current regulation allows for the exclusion of the price of hard parts. Often times, the cost of hard parts is added later, regardless of whether the customer elects to repair or replace the transmission. When repair facilities utilize this "Important Notice" to disclose costs to customers, the customers are not able to make informed decisions about the repair/replacement of their automatic transmission because they do not have sufficient information.

Although the "Important Notice" was supposed to be used as a consumer protection device, it has not proven itself to be as effective as Section 3353. Section 3353 affords consumer protection by requiring that complete written estimates be provided to the customer before any work can be done, and that authorization be obtained for any additional parts or services prior to that work being done. Under Section 3353, customers are only responsible for the parts and services authorized. No additional costs can be added without the customer's prior knowledge and consent. Furthermore, the disclosure requirements of Section 3361.1(d) are somewhat duplicative of the requirements of 3353

and require the printing of the “Important Notice” on estimates and invoices; an unnecessary and duplicative burden on the automotive repair dealer.

The proposed regulation amendments would eliminate unnecessary duplication and burdensome “Important Notice” requirements and specifically apply the provisions of Section 3353 to automatic transmission work, including those provisions relating to revised estimates and additional authorization. These proposed amendments would also eliminate confusion and require automatic transmission repair facilities to disclose complete information regarding the total price to rebuild or replace an automatic transmission. Customers would no longer face the possibility of being surprised by hidden charges.

**Underlying Data:**

None

**Business Impact:**

These regulations will not have a significant adverse economic impact on businesses.

**Specific Technologies or Equipment:**

These regulations do not mandate the use of specific technologies or equipment.

**Consideration or Alternatives:**

No alternative, which was considered, would be either more effective than or equally as effective and less burdensome than the proposed regulatory recommendations.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

- 1) An alternative to the proposed regulation is to redraft Section 3361.1(d), the “Important Notice.”

To restructure the Important Notice would prove costly to businesses engaged in the repair of automatic transmissions. Automotive repair facilities that engage in the repair of automatic transmissions would be required to print new work orders and invoices with a revised “Important Notice” in order to comply. Furthermore, the requirements of existing Section 3353 for written estimates, revised estimates, invoices and customer authorization fulfill the consumer protection intent of the “Important Notice” and more.